

President with Senate confirmation. The chief prosecutors in the federal court districts are called U.S. attorneys and are also appointed by the President with Senate confirmation. Within the Department of Justice is the Federal Bureau of Investigation, which investigates crimes against the United States. Each state also has an attorney general in the state executive branch who is usually elected by the citizens of that state. There are also prosecutors in different regions of the state, called state’s attorneys or district attorneys. These prosecutors are also usually elected.

Lawyers

The U.S. legal system uses the adversarial process. Lawyers are essential to this process. Lawyers are responsible for presenting their clients’ evidence and legal arguments to the court. Based on the lawyers’ presentations, a trial judge or jury determines the facts and applies the law to reach a decision before judgment is entered.

Individuals are free to represent themselves in American courts, but lawyers are often necessary to present cases effectively. An individual who cannot afford to hire a lawyer may attempt to obtain one through a local legal aid society. Persons accused of crimes who cannot afford a lawyer are represented by a court-appointed attorney or by federal or state public defender offices.

American lawyers are licensed by the individual states in which they practice law. There is no national authority that licenses lawyers. Most states require applicants to hold a law degree (Juris Doctor) from an accredited law school. An American law degree is a postgraduate degree awarded at the end of a three-year course of study. (Normally individuals complete four years of college/university before attending law school.) Also, most states require that applicants for a license to practice law pass a written bar examination and meet certain standards of character. Some states allow lawyers to become bar members based on membership in another state’s bar. All states provide for out-of-state lawyers to practice in the state in a particular case under certain conditions. Lawyers can engage in any kind of practice. Although there is no formal distinction among types of legal practice, there is much informal specialization.

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THE U.S. LEGAL SYSTEM: A SHORT DESCRIPTION

Background

The U.S. Constitution establishes a federal (national) system of government, to which it gives specific powers. All power not delegated to the federal government remains with the 50 states. Each state has its own state constitution, governmental structure, legal codes, and judiciary.

Article III of the Constitution vests judicial authority of the federal government in one Supreme Court and lower courts created by the U.S. Congress. Federal courts have exclusive jurisdiction only over certain types of cases, principally those involving federal laws, foreign governments, and controversies between states. In certain other areas federal courts share jurisdiction with state courts. For example, both federal and state courts may decide cases involving parties who live in different states. State courts have exclusive jurisdiction over the vast majority of cases.

Most legal disputes in the United States are resolved by legal motion or settlement, though parties have a right to trial by jury in all criminal and most civil cases. A jury panel usually consists of 12 citizens who hear the evidence and apply the law, stated by the judge, to reach a decision. The facts of the case, as the jury determines them from evidence at trial, form the basis of this decision.

Structure of the Federal Court System

Congress has established two levels of federal courts below the Supreme Court: the U.S. district courts and the U.S. circuit courts of appeals. U.S. district courts are the courts of first instance in the federal system. There are 94 district courts throughout the nation. At least one district court is located in each state. District judges sit individually to hear cases. In addition to district judges, bankruptcy judges (who hear only bankruptcy cases) and magistrate judges (who perform many judicial duties under the general supervision of district judges) are located within the district courts.

U.S. circuit courts of appeals are on the next level. There are 12 of these regional intermediate appellate courts located in different parts of the country. Panels of three **[circuit?]** judges hear appeals from the district courts. A party to a case may appeal as a matter of right to the circuit court (except that the government has no right of appeal in a criminal case if the verdict is “not guilty.”) Circuit courts also hear appeals from decisions of federal administrative agencies. One nonregional circuit court, the Federal Circuit, hears appeals in specialized cases, such as those involving patent laws and claims against the federal government.

At the top of the federal court system is the U.S. Supreme Court, made up of nine justices who sit together to hear cases. At its discretion, the U.S. Supreme Court may hear appeals from the federal circuit courts of appeals as well as the highest state courts if the appeal involves the U.S. Constitution or federal law.

Structure of the Court Systems

The structure of state court systems varies from state to state. Each state court system has unique features; however, some generalizations can be made. Most states have courts of limited jurisdiction presided over by a single judge who hears minor civil and criminal cases. States also have general jurisdiction trial courts that are presided over by a single judge. These trial courts are usually called circuit courts or superior courts and hear major civil and criminal cases. Some states have specialized courts that hear only certain kinds of cases such as traffic or family law cases.

All states have a highest court, usually called a state supreme court, that serves as an appellate court. Many states also have an intermediate appellate court called a court of appeals that hears appeals from the trial court. A party in a case generally has one right of appeal.

Court Administration

The judicial branches of the federal and state governments are separate from the legislative and executive branches. To ensure judicial independence, the judicial branches of the federal and state governments control the administration of the courts. Court administration includes managing court budgets, prescribing rules of trial and appellate procedure, reviewing judicial discipline matters, offering continuing educational programs for judges, and studying court performance.

In the federal judiciary, the Judicial Conference of the United States has overall administrative responsibility for the courts, as well as primary authority to make policy regarding the operation of the judicial branch of the government. Made up of 27 members (the Chief Justice of the United States and 26 judges from each geographic region of the United States), the Judicial Conference is assisted by a large number of committees made up of federal judges (and sometimes also state court judges and attorneys), who study different parts of the federal court system and make recommendations. An important responsibility of the Judicial Conference is to recommend changes in the rules of procedure used by all federal courts.

Congress has created three administrative agencies within the judicial branch. The Administrative Office of the U.S. Courts manages the day-to-day operations of the courts, including such matters as payroll, equipment, and supplies. The Federal Judicial Center conducts educational and training programs for judges and court personnel and does research in the fields of court operations and admin-

istration. The U.S. Sentencing Commission develops advisory guidelines for federal judges in imposing criminal sentences.

In most state court systems, the state supreme court has overall administrative authority over the court system. It is assisted by an administrative office. The chief justice of the state supreme court usually appoints the director of the state court administrative office.

Judges

Justices of the U.S. Supreme Court and circuit and district judges are appointed by the President of the United States if approved by a majority vote of the U.S. Senate. These justices and judges serve “during good behavior”— in effect, a life term. Presidents usually nominate persons to be judges who are members of their own political party. Persons appointed are usually distinguished lawyers, law professors, or lower federal court or state court judges. Once these judges are appointed, their salaries cannot be reduced. Federal judges may only be removed from office through an impeachment process in which charges are made by the House of Representatives and a trial is conducted by the Senate. In the entire history of the United States, only a few judges have been impeached, and those removed were found to have committed serious misconduct. These protections allow federal judges to exercise independent judgment without political or outside interference or influence.

The methods of selecting state judges vary from state to state and are often different within a state, depending on the type of court. The most common selection systems are by commission nomination and by popular election. In the commission nomination system, judges are appointed by the governor (the state’s chief executive), who must choose from a list of candidates selected by an independent commission made up of lawyers, legislators, lay citizens, and sometimes judges. In many states judges are selected by popular election, which may be partisan or nonpartisan. Candidates for judicial appointment or election must meet certain qualifications, such as being a practicing lawyer for a certain number of years.

With very few exceptions, state judges serve specified, renewable terms. All states have procedures governing judicial conduct, discipline, and removal. In both the federal and state systems, judicial candidates are almost always lawyers with many years of experience. There is no specific course of training for judges and no examination. Some states require judges to attend continuing education programs to learn about developments in the law. Both the federal and state court systems offer beginning and continuing education programs for judges.

Prosecutors

Prosecutors in the federal system are part of the U.S. Department of Justice in the executive branch. The Attorney General of the United States, who heads the Department of Justice, is appointed by the